

1 AN ACT in relation to sexually violent persons.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7 and 1-8 as follows:

6 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

7 Sec. 1-7. Confidentiality of law enforcement records.

8 (A) Inspection and copying of law enforcement records
9 maintained by law enforcement agencies that relate to a minor
10 who has been arrested or taken into custody before his or her
11 17th birthday shall be restricted to the following:

12 (1) Any local, State or federal law enforcement
13 officers of any jurisdiction or agency when necessary for
14 the discharge of their official duties during the
15 investigation or prosecution of a crime or relating to a
16 minor who has been adjudicated delinquent and there has
17 been a previous finding that the act which constitutes
18 the previous offense was committed in furtherance of
19 criminal activities by a criminal street gang. For
20 purposes of this Section, "criminal street gang" has the
21 meaning ascribed to it in Section 10 of the Illinois
22 Streetgang Terrorism Omnibus Prevention Act.

23 (2) Prosecutors, probation officers, social
24 workers, or other individuals assigned by the court to
25 conduct a pre-adjudication or pre-disposition
26 investigation, and individuals responsible for
27 supervising or providing temporary or permanent care and
28 custody for minors pursuant to the order of the juvenile
29 court, when essential to performing their
30 responsibilities.

31 (3) Prosecutors and probation officers:

1 (a) in the course of a trial when institution
2 of criminal proceedings has been permitted or
3 required under Section 5-805; or

4 (b) when institution of criminal proceedings
5 has been permitted or required under Section 5-805
6 and such minor is the subject of a proceeding to
7 determine the amount of bail; or

8 (c) when criminal proceedings have been
9 permitted or required under Section 5-805 and such
10 minor is the subject of a pre-trial investigation,
11 pre-sentence investigation, fitness hearing, or
12 proceedings on an application for probation.

13 (4) Adult and Juvenile Prisoner Review Board.

14 (5) Authorized military personnel.

15 (6) Persons engaged in bona fide research, with the
16 permission of the Presiding Judge of the Juvenile Court
17 and the chief executive of the respective law enforcement
18 agency; provided that publication of such research
19 results in no disclosure of a minor's identity and
20 protects the confidentiality of the minor's record.

21 (7) Department of Children and Family Services
22 child protection investigators acting in their official
23 capacity.

24 (8) The appropriate school official. Inspection
25 and copying shall be limited to law enforcement records
26 transmitted to the appropriate school official by a local
27 law enforcement agency under a reciprocal reporting
28 system established and maintained between the school
29 district and the local law enforcement agency under
30 Section 10-20.14 of the School Code concerning a minor
31 enrolled in a school within the school district who has
32 been arrested or taken into custody for any of the
33 following offenses:

34 (i) unlawful use of weapons under Section 24-1

1 of the Criminal Code of 1961;

2 (ii) a violation of the Illinois Controlled
3 Substances Act;

4 (iii) a violation of the Cannabis Control Act;

5 or

6 (iv) a forcible felony as defined in Section
7 2-8 of the Criminal Code of 1961.

8 (9) Mental health professionals on behalf of the
9 Illinois Department of Corrections or the Department of
10 Human Services or prosecutors who are evaluating,
11 prosecuting, or investigating a potential or actual
12 petition brought under the Sexually Violent Persons
13 Commitment Act relating to a person who is the subject of
14 juvenile law enforcement records or the respondent to a
15 petition brought under the Sexually Violent Persons
16 Commitment Act who is the subject of the juvenile law
17 enforcement records sought. Any records and any
18 information obtained from those records under this
19 paragraph (9) may be used only in sexually violent
20 persons commitment proceedings.

21 (B) (1) Except as provided in paragraph (2), no law
22 enforcement officer or other person or agency may
23 knowingly transmit to the Department of Corrections,
24 Adult Division or the Department of State Police or to
25 the Federal Bureau of Investigation any fingerprint or
26 photograph relating to a minor who has been arrested or
27 taken into custody before his or her 17th birthday,
28 unless the court in proceedings under this Act authorizes
29 the transmission or enters an order under Section 5-805
30 permitting or requiring the institution of criminal
31 proceedings.

32 (2) Law enforcement officers or other persons or
33 agencies shall transmit to the Department of State
34 Police copies of fingerprints and descriptions of all

1 minors who have been arrested or taken into custody
2 before their 17th birthday for the offense of unlawful
3 use of weapons under Article 24 of the Criminal Code of
4 1961, a Class X or Class 1 felony, a forcible felony as
5 defined in Section 2-8 of the Criminal Code of 1961, or a
6 Class 2 or greater felony under the Cannabis Control Act,
7 the Illinois Controlled Substances Act, or Chapter 4 of
8 the Illinois Vehicle Code, pursuant to Section 5 of the
9 Criminal Identification Act. Information reported to the
10 Department pursuant to this Section may be maintained
11 with records that the Department files pursuant to
12 Section 2.1 of the Criminal Identification Act. Nothing
13 in this Act prohibits a law enforcement agency from
14 fingerprinting a minor taken into custody or arrested
15 before his or her 17th birthday for an offense other than
16 those listed in this paragraph (2).

17 (C) The records of law enforcement officers concerning
18 all minors under 17 years of age must be maintained separate
19 from the records of arrests and may not be open to public
20 inspection or their contents disclosed to the public except
21 by order of the court or when the institution of criminal
22 proceedings has been permitted or required under Section
23 5-805 or such a person has been convicted of a crime and is
24 the subject of pre-sentence investigation or proceedings on
25 an application for probation or when provided by law.

26 (D) Nothing contained in subsection (C) of this Section
27 shall prohibit the inspection or disclosure to victims and
28 witnesses of photographs contained in the records of law
29 enforcement agencies when the inspection and disclosure is
30 conducted in the presence of a law enforcement officer for
31 the purpose of the identification or apprehension of any
32 person subject to the provisions of this Act or for the
33 investigation or prosecution of any crime.

34 (E) Law enforcement officers may not disclose the

1 identity of any minor in releasing information to the general
2 public as to the arrest, investigation or disposition of any
3 case involving a minor.

4 (F) Nothing contained in this Section shall prohibit law
5 enforcement agencies from communicating with each other by
6 letter, memorandum, teletype or intelligence alert bulletin
7 or other means the identity or other relevant information
8 pertaining to a person under 17 years of age if there are
9 reasonable grounds to believe that the person poses a real
10 and present danger to the safety of the public or law
11 enforcement officers. The information provided under this
12 subsection (F) shall remain confidential and shall not be
13 publicly disclosed, except as otherwise allowed by law.

14 (G) Nothing in this Section shall prohibit the right of
15 a Civil Service Commission or appointing authority of any
16 state, county or municipality examining the character and
17 fitness of an applicant for employment with a law enforcement
18 agency, correctional institution, or fire department from
19 obtaining and examining the records of any law enforcement
20 agency relating to any record of the applicant having been
21 arrested or taken into custody before the applicant's 17th
22 birthday.

23 (Source: P.A. 90-127, eff. 1-1-98; 91-357, eff. 7-29-99;
24 91-368, eff. 1-1-00.)

25 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

26 Sec. 1-8. Confidentiality and accessibility of juvenile
27 court records.

28 (A) Inspection and copying of juvenile court records
29 relating to a minor who is the subject of a proceeding under
30 this Act shall be restricted to the following:

31 (1) The minor who is the subject of record, his
32 parents, guardian and counsel.

33 (2) Law enforcement officers and law enforcement

1 agencies when such information is essential to executing
2 an arrest or search warrant or other compulsory process,
3 or to conducting an ongoing investigation or relating to
4 a minor who has been adjudicated delinquent and there has
5 been a previous finding that the act which constitutes
6 the previous offense was committed in furtherance of
7 criminal activities by a criminal street gang.

8 Before July 1, 1994, for the purposes of this
9 Section, "criminal street gang" means any ongoing
10 organization, association, or group of 3 or more persons,
11 whether formal or informal, having as one of its primary
12 activities the commission of one or more criminal acts
13 and that has a common name or common identifying sign,
14 symbol or specific color apparel displayed, and whose
15 members individually or collectively engage in or have
16 engaged in a pattern of criminal activity.

17 Beginning July 1, 1994, for purposes of this
18 Section, "criminal street gang" has the meaning ascribed
19 to it in Section 10 of the Illinois Streetgang Terrorism
20 Omnibus Prevention Act.

21 (3) Judges, hearing officers, prosecutors,
22 probation officers, social workers or other individuals
23 assigned by the court to conduct a pre-adjudication or
24 predisposition investigation, and individuals responsible
25 for supervising or providing temporary or permanent care
26 and custody for minors pursuant to the order of the
27 juvenile court when essential to performing their
28 responsibilities.

29 (4) Judges, prosecutors and probation officers:

30 (a) in the course of a trial when institution
31 of criminal proceedings has been permitted or
32 required under Section 5-805; or

33 (b) when criminal proceedings have been
34 permitted or required under Section 5-805 and a

1 minor is the subject of a proceeding to determine
2 the amount of bail; or

3 (c) when criminal proceedings have been
4 permitted or required under Section 5-805 and a
5 minor is the subject of a pre-trial investigation,
6 pre-sentence investigation or fitness hearing, or
7 proceedings on an application for probation; or

8 (d) when a minor becomes 17 years of age or
9 older, and is the subject of criminal proceedings,
10 including a hearing to determine the amount of bail,
11 a pre-trial investigation, a pre-sentence
12 investigation, a fitness hearing, or proceedings on
13 an application for probation.

14 (5) Adult and Juvenile Prisoner Review Boards.

15 (6) Authorized military personnel.

16 (7) Victims, their subrogees and legal
17 representatives; however, such persons shall have access
18 only to the name and address of the minor and information
19 pertaining to the disposition or alternative adjustment
20 plan of the juvenile court.

21 (8) Persons engaged in bona fide research, with the
22 permission of the presiding judge of the juvenile court
23 and the chief executive of the agency that prepared the
24 particular records; provided that publication of such
25 research results in no disclosure of a minor's identity
26 and protects the confidentiality of the record.

27 (9) The Secretary of State to whom the Clerk of the
28 Court shall report the disposition of all cases, as
29 required in Section 6-204 of the Illinois Vehicle Code.
30 However, information reported relative to these offenses
31 shall be privileged and available only to the Secretary
32 of State, courts, and police officers.

33 (10) The administrator of a bonafide substance
34 abuse student assistance program with the permission of

1 the presiding judge of the juvenile court.

2 (11) Mental health professionals on behalf of the
3 Illinois Department of Corrections or the Department of
4 Human Services or prosecutors who are evaluating,
5 prosecuting, or investigating a potential or actual
6 petition brought under the Sexually Persons Commitment
7 Act relating to a person who is the subject of juvenile
8 court records or the respondent to a petition brought
9 under the Sexually Violent Persons Commitment Act, who is
10 the subject of juvenile court records sought. Any
11 records and any information obtained from those records
12 under this paragraph (11) may be used only in sexually
13 violent persons commitment proceedings.

14 (B) A minor who is the victim in a juvenile proceeding
15 shall be provided the same confidentiality regarding
16 disclosure of identity as the minor who is the subject of
17 record.

18 (C) Except as otherwise provided in this subsection (C),
19 juvenile court records shall not be made available to the
20 general public but may be inspected by representatives of
21 agencies, associations and news media or other properly
22 interested persons by general or special order of the court.
23 The State's Attorney, the minor, his parents, guardian and
24 counsel shall at all times have the right to examine court
25 files and records.

26 (1) The court shall allow the general public to
27 have access to the name, address, and offense of a minor
28 who is adjudicated a delinquent minor under this Act
29 under either of the following circumstances:

30 (A) The adjudication of delinquency was based
31 upon the minor's commission of first degree murder,
32 attempt to commit first degree murder, aggravated
33 criminal sexual assault, or criminal sexual assault;
34 or

1 (B) The court has made a finding that the
2 minor was at least 13 years of age at the time the
3 act was committed and the adjudication of
4 delinquency was based upon the minor's commission
5 of: (i) an act in furtherance of the commission of a
6 felony as a member of or on behalf of a criminal
7 street gang, (ii) an act involving the use of a
8 firearm in the commission of a felony, (iii) an act
9 that would be a Class X felony offense under or the
10 minor's second or subsequent Class 2 or greater
11 felony offense under the Cannabis Control Act if
12 committed by an adult, (iv) an act that would be a
13 second or subsequent offense under Section 402 of
14 the Illinois Controlled Substances Act if committed
15 by an adult, or (v) an act that would be an offense
16 under Section 401 of the Illinois Controlled
17 Substances Act if committed by an adult.

18 (2) The court shall allow the general public to
19 have access to the name, address, and offense of a minor
20 who is at least 13 years of age at the time the offense
21 is committed and who is convicted, in criminal
22 proceedings permitted or required under Section 5-4,
23 under either of the following circumstances:

24 (A) The minor has been convicted of first
25 degree murder, attempt to commit first degree
26 murder, aggravated criminal sexual assault, or
27 criminal sexual assault,

28 (B) The court has made a finding that the
29 minor was at least 13 years of age at the time the
30 offense was committed and the conviction was based
31 upon the minor's commission of: (i) an offense in
32 furtherance of the commission of a felony as a
33 member of or on behalf of a criminal street gang,
34 (ii) an offense involving the use of a firearm in

1 the commission of a felony, (iii) a Class X felony
2 offense under or a second or subsequent Class 2 or
3 greater felony offense under the Cannabis Control
4 Act, (iv) a second or subsequent offense under
5 Section 402 of the Illinois Controlled Substances
6 Act, or (v) an offense under Section 401 of the
7 Illinois Controlled Substances Act.

8 (D) Pending or following any adjudication of delinquency
9 for any offense defined in Sections 12-13 through 12-16 of
10 the Criminal Code of 1961, the victim of any such offense
11 shall receive the rights set out in Sections 4 and 6 of the
12 Bill of Rights for Victims and Witnesses of Violent Crime
13 Act; and the juvenile who is the subject of the adjudication,
14 notwithstanding any other provision of this Act, shall be
15 treated as an adult for the purpose of affording such rights
16 to the victim.

17 (E) Nothing in this Section shall affect the right of a
18 Civil Service Commission or appointing authority of any
19 state, county or municipality examining the character and
20 fitness of an applicant for employment with a law enforcement
21 agency, correctional institution, or fire department to
22 ascertain whether that applicant was ever adjudicated to be a
23 delinquent minor and, if so, to examine the records of
24 disposition or evidence which were made in proceedings under
25 this Act.

26 (F) Following any adjudication of delinquency for a
27 crime which would be a felony if committed by an adult, or
28 following any adjudication of delinquency for a violation of
29 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
30 1961, the State's Attorney shall ascertain whether the minor
31 respondent is enrolled in school and, if so, shall provide a
32 copy of the dispositional order to the principal or chief
33 administrative officer of the school. Access to such
34 juvenile records shall be limited to the principal or chief

1 administrative officer of the school and any guidance
2 counselor designated by him.

3 (G) Nothing contained in this Act prevents the sharing
4 or disclosure of information or records relating or
5 pertaining to juveniles subject to the provisions of the
6 Serious Habitual Offender Comprehensive Action Program when
7 that information is used to assist in the early
8 identification and treatment of habitual juvenile offenders.

9 (H) When a Court hearing a proceeding under Article II
10 of this Act becomes aware that an earlier proceeding under
11 Article II had been heard in a different county, that Court
12 shall request, and the Court in which the earlier proceedings
13 were initiated shall transmit, an authenticated copy of the
14 Court record, including all documents, petitions, and orders
15 filed therein and the minute orders, transcript of
16 proceedings, and docket entries of the Court.

17 (I) The Clerk of the Circuit Court shall report to the
18 Department of State Police, in the form and manner required
19 by the Department of State Police, the final disposition of
20 each minor who has been arrested or taken into custody before
21 his or her 17th birthday for those offenses required to be
22 reported under Section 5 of the Criminal Identification Act.
23 Information reported to the Department under this Section may
24 be maintained with records that the Department files under
25 Section 2.1 of the Criminal Identification Act.

26 (Source: P.A. 90-28, eff. 1-1-98; 90-87, eff. 9-1-97; 90-127,
27 eff. 1-1-98; 90-655, eff. 7-30-98; 91-357, eff. 7-29-99;
28 91-368, eff. 1-1-00.)

29 Section 10. The Criminal Code of 1961 is amended by
30 changing Section 11-9.2 as follows:

31 (720 ILCS 5/11-9.2)

32 Sec. 11-9.2. Custodial sexual misconduct.

1 (a) A person commits the offense of custodial sexual
2 misconduct when: (1) he or she is an employee of a penal
3 system and engages in sexual conduct or sexual penetration
4 with a person who is in the custody of that penal system or
5 (2) he or she is an employee of a treatment and detention
6 facility and engages in sexual conduct or sexual penetration
7 with a person who is in the custody of that treatment and
8 detention facility.

9 (b) A probation or supervising officer or surveillance
10 agent commits the offense of custodial sexual misconduct when
11 the probation or supervising officer or surveillance agent
12 engages in sexual conduct or sexual penetration with a
13 probationer, parolee, or releasee or person serving a term of
14 conditional release who is under the supervisory,
15 disciplinary, or custodial authority of the officer or agent
16 so engaging in the sexual conduct or sexual penetration.

17 (c) Custodial sexual misconduct is a Class 3 felony.

18 (d) Any person convicted of violating this Section
19 immediately shall forfeit his or her employment with a penal
20 system, treatment and detention facility, or conditional
21 release program.

22 (e) For purposes of this Section, the consent of the
23 probationer, parolee, releasee, or inmate in custody of the
24 penal system or person detained or civilly committed under
25 the Sexually Violent Persons Commitment Act shall not be a
26 defense to a prosecution under this Section. A person is
27 deemed incapable of consent, for purposes of this Section,
28 when he or she is a probationer, parolee, releasee, or inmate
29 in custody of a penal system or person detained or civilly
30 committed under the Sexually Violent Persons Commitment Act.

31 (f) This Section does not apply to:

32 (1) Any employee, probationer, or supervising
33 officer, or surveillance agent who is lawfully married to
34 a person in custody if the marriage occurred before the

1 date of custody.

2 (2) Any employee, probation, or supervising
3 officer, or surveillance agent who has no knowledge, and
4 would have no reason to believe, that the person with
5 whom he or she engaged in custodial sexual misconduct was
6 a person in custody.

7 (g) In this Section:

8 (1) "Custody" means:

9 (i) pretrial incarceration or detention;

10 (ii) incarceration or detention under a
11 sentence or commitment to a State or local penal
12 institution;

13 (iii) parole or mandatory supervised release;

14 (iv) electronic home detention;

15 (v) probation;

16 (vi) detention or civil commitment either in
17 secure care or in the community under the Sexually
18 Violent Persons Commitment Act.

19 (2) "Penal system" means any system which includes
20 institutions as defined in Section 2-14 of this Code or a
21 county shelter care or detention home established under
22 Section 1 of the County Shelter Care and Detention Home
23 Act.

24 (2.1) "Treatment and detention facility" means any
25 Department of Human Services facility established for the
26 detention or civil commitment of persons under the
27 Sexually Violent Persons Commitment Act.

28 (2.2) "Conditional release" means a program of
29 treatment and services, vocational services, and alcohol
30 or other drug abuse treatment provided to any person
31 civilly committed and conditionally released to the
32 community under the Sexually Violent Persons Commitment
33 Act;

34 (3) "Employee" means:

1 (i) an employee of any governmental agency of
2 this State or any county or municipal corporation
3 that has by statute, ordinance, or court order the
4 responsibility for the care, control, or supervision
5 of pretrial or sentenced persons in a penal system
6 or persons detained or civilly committed under the
7 Sexually Violent Persons Commitment Act;

8 (ii) a contractual employee of a penal system
9 as defined in paragraph (g)(2) of this Section who
10 works in a penal institution as defined in Section
11 2-14 of this Code;

12 (iii) a contractual employee of a "treatment
13 and detention facility" as defined in paragraph
14 (g)(2.1) of this Code or a contractual employee of
15 the Department of Human Services who provides
16 supervision of persons serving a term of conditional
17 release as defined in paragraph (g)(2.2) of this
18 Code.

19 (4) "Sexual conduct" or "sexual penetration" means
20 any act of sexual conduct or sexual penetration as
21 defined in Section 12-12 of this Code.

22 (5) "Probation officer" means any person employed
23 in a probation or court services department as defined in
24 Section 9b of the Probation and Probation Officers Act.

25 (6) "Supervising officer" means any person employed
26 to supervise persons placed on parole or mandatory
27 supervised release with the duties described in Section
28 3-14-2 of the Unified Code of Corrections.

29 (7) "Surveillance agent" means any person employed
30 or contracted to supervise persons placed on conditional
31 release in the community under the Sexually Violent
32 Persons Commitment Act.

33 (Source: P.A. 90-66, eff. 7-7-97; 90-655, eff. 7-30-98.)

1 Section 15. The Sexually Violent Persons Commitment Act
2 is amended by changing Sections 30, 35, 40, 60, and 65 as
3 follows:

4 (725 ILCS 207/30)

5 Sec. 30. Detention; probable cause hearing; transfer for
6 examination.

7 (a) Upon the filing of a petition under Section 15 of
8 this Act, the court shall review the petition to determine
9 whether to issue an order for detention of the person who is
10 the subject of the petition. The person shall be detained
11 only if there is cause to believe that the person is eligible
12 for commitment under subsection (f) of Section 35 of this
13 Act. A person detained under this Section shall be held in a
14 facility approved by the Department. If the person is
15 serving a sentence of imprisonment, is in a Department of
16 Corrections correctional facility or juvenile correctional
17 facility or is committed to institutional care, and the court
18 orders detention under this Section, the court shall order
19 that the person be transferred to a detention facility
20 approved by the Department. A detention order under this
21 Section remains in effect until the person is discharged
22 after a trial under Section 35 of this Act or until the
23 effective date of a commitment order under Section 40 of this
24 Act, whichever is applicable.

25 (b) Whenever a petition is filed under Section 15 of
26 this Act, the court shall hold a hearing to determine whether
27 there is probable cause to believe that the person named in
28 the petition is a sexually violent person. If the person
29 named in the petition is in custody, the court shall hold the
30 probable cause hearing within 72 hours after the petition is
31 filed, excluding Saturdays, Sundays and legal holidays. The
32 court may grant a continuance of the probable cause hearing
33 for no more than 7 additional days upon the motion of the

1 respondent, for good cause. If the person named in the
2 petition has been released, is on parole, is on mandatory
3 supervised release, or otherwise is not in custody, the court
4 shall hold the probable cause hearing within a reasonable
5 time after the filing of the petition. At the probable cause
6 hearing, the court shall admit and consider all relevant
7 hearsay evidence.

8 (c) If the court determines after a hearing that there
9 is probable cause to believe that the person named in the
10 petition is a sexually violent person, the court shall order
11 that the person be taken into custody if he or she is not in
12 custody and shall order the person to be transferred within a
13 reasonable time to an appropriate facility for an evaluation
14 as to whether the person is a sexually violent person. If the
15 person who is named in the petition refuses to speak to,
16 communicate with, or otherwise fails to cooperate with the
17 examining evaluator from the Department of Human Services or
18 the Department of Corrections, that person may only introduce
19 evidence and testimony from any expert or professional person
20 who is retained or court-appointed to conduct an examination
21 of the person that results from a review of the records and
22 may not introduce evidence resulting from an examination of
23 the person. ~~If the person named in the petition--refuses--to~~
24 ~~speak--to,--communicate with,--or--otherwise fails to cooperate~~
25 ~~with the expert from the Department of Human Services who--is~~
26 ~~conducting--the--evaluation,--the--person shall be prohibited~~
27 ~~from introducing testimony or evidence--from--any--expert--or~~
28 ~~professional--person--who--is--retained or court-appointed to~~
29 ~~conduct an evaluation of--the--person.~~ Notwithstanding the
30 provisions of Section 10 of the Mental Health and
31 Developmental Disabilities Confidentiality Act, all
32 evaluations conducted pursuant to this Act and all Illinois
33 Department of Corrections treatment records shall be
34 admissible at all proceedings held pursuant to this Act,

1 including the probable cause hearing and the trial.

2 If the court determines that probable cause does not
3 exist to believe that the person is a sexually violent
4 person, the court shall dismiss the petition.

5 (d) The Department shall promulgate rules that provide
6 the qualifications for persons conducting evaluations under
7 subsection (c) of this Section.

8 (e) If the person named in the petition claims or
9 appears to be indigent, the court shall, prior to the
10 probable cause hearing under subsection (b) of this Section,
11 appoint counsel.

12 (Source: P.A. 90-40, eff. 1-1-98; 90-793, eff. 8-14-98.)

13 (725 ILCS 207/35)

14 Sec. 35. Trial.

15 (a) A trial to determine whether the person who is the
16 subject of a petition under Section 15 of this Act is a
17 sexually violent person shall commence no later than 120 45
18 days after the date of the probable cause hearing under
19 Section 30 of this Act. Delay is considered to be agreed to
20 by the person unless he or she objects to the delay by making
21 a written demand for trial or an oral demand for trial on the
22 record. Delay occasioned by the person temporarily suspends
23 for the time of the delay the period within which a person
24 must be tried. If the delay occurs within 21 days after the
25 end of the period within which a person must be tried, the
26 court may continue the cause on application of the State for
27 not more than an additional 21 days beyond the period
28 prescribed. The court may grant a continuance of the trial
29 date for good cause upon its own motion, the motion of any
30 party or the stipulation of the parties, provided that any
31 continuance granted shall be subject to Section 103-5 of the
32 Code of Criminal Procedure of 1963.

33 (b) ~~At the trial to determine whether the person who is~~

1 the--subject--of-a-petition-under-Section-15-of-this-Act-is-a
2 sexually-violent-person,-all-rules-of--evidence--in--criminal
3 actions--apply.----All--constitutional--rights-available-to-a
4 defendant-in-a--criminal--proceeding--are--available--to--the
5 person. At the trial on the petition it shall be competent
6 to introduce evidence of the commission by the respondent of
7 any number of crimes together with whatever punishments, if
8 any, were imposed. The petitioner may present expert
9 testimony from both the Illinois Department of Corrections
10 evaluator and the Department of Human Services psychologist.

11 (c) The person who is the subject of the petition, the
12 person's attorney, the Attorney General or the State's
13 Attorney may request that a trial under this Section be by a
14 jury. A request for a jury trial under this subsection shall
15 be made within 10 days after the probable cause hearing under
16 Section 30 of this Act. If no request is made, the trial
17 shall be by the court. The person, the person's attorney or
18 the Attorney General or State's Attorney, whichever is
19 applicable, may withdraw his or her request for a jury trial.

20 (d) (1) At a trial on a petition under this Act, the
21 petitioner has the burden of proving the allegations in
22 the petition beyond a reasonable doubt.

23 (2) If the State alleges that the sexually violent
24 offense or act that forms the basis for the petition was
25 an act that was sexually motivated as provided in
26 paragraph (e)(2) of Section 5 of this Act, the State is
27 required to prove beyond a reasonable doubt that the
28 alleged sexually violent act was sexually motivated.

29 (e) Evidence that the person who is the subject of a
30 petition under Section 15 of this Act was convicted for or
31 committed sexually violent offenses before committing the
32 offense or act on which the petition is based is not
33 sufficient to establish beyond a reasonable doubt that the
34 person has a mental disorder.

1 (f) If the court or jury determines that the person who
2 is the subject of a petition under Section 15 is a sexually
3 violent person, the court shall enter a judgment on that
4 finding and shall commit the person as provided under Section
5 40 of this Act. If the court or jury is not satisfied beyond
6 a reasonable doubt that the person is a sexually violent
7 person, the court shall dismiss the petition and direct that
8 the person be released unless he or she is under some other
9 lawful restriction.

10 (g) A judgment entered under subsection (f) of this
11 Section on the finding that the person who is the subject of
12 a petition under Section 15 is a sexually violent person is
13 interlocutory to a commitment order under Section 40 and is
14 reviewable on appeal.

15 (Source: P.A. 90-40, eff. 1-1-98; 91-875, eff. 6-30-00.)

16 (725 ILCS 207/40)

17 Sec. 40. Commitment.

18 (a) If a court or jury determines that the person who is
19 the subject of a petition under Section 15 of this Act is a
20 sexually violent person, the court shall order the person to
21 be committed to the custody of the Department for control,
22 care and treatment until such time as the person is no longer
23 a sexually violent person.

24 (b) (1) The court shall enter an initial commitment
25 order under this Section pursuant to a hearing held as
26 soon as practicable after the judgment is entered that
27 the person who is the subject of a petition under Section
28 15 is a sexually violent person. If the court lacks
29 sufficient information to make the determination required
30 by paragraph (b)(2) of this Section immediately after
31 trial, it may adjourn the hearing and order the
32 Department to conduct a predisposition investigation or a
33 supplementary mental examination, or both, to assist the

1 court in framing the commitment order. A supplementary
2 mental examination under this Section shall be conducted
3 in accordance with Section 3-804 of the Mental Health and
4 Developmental Disabilities Code.

5 (2) An order for commitment under this Section
6 shall specify either institutional care in a secure
7 facility, as provided under Section 50 of this Act, or
8 conditional release. In determining whether commitment
9 shall be for institutional care in a secure facility or
10 for conditional release, the court shall ~~must~~ consider
11 the nature and circumstances of the behavior that was the
12 basis of the allegation in the petition under paragraph
13 (b)(1) of Section 15, the person's mental history and
14 present mental condition, where the person will live, how
15 the person will support himself or herself, and what
16 arrangements are available to ensure that the person has
17 access to and will participate in necessary treatment.
18 The Department shall arrange for control, care and
19 treatment of the person in the least restrictive manner
20 consistent with the requirements of the person and in
21 accordance with the court's commitment order.

22 (3) If the court finds that the person is
23 appropriate for conditional release, the court shall
24 notify the Department. The Department shall prepare a
25 plan that identifies the treatment and services, if any,
26 that the person will receive in the community. The plan
27 shall address the person's need, if any, for supervision,
28 counseling, medication, community support services,
29 residential services, vocational services, and alcohol or
30 other drug abuse treatment. The Department may contract
31 with a county health department, with another public
32 agency or with a private agency to provide the treatment
33 and services identified in the plan. The plan shall
34 specify who will be responsible for providing the

1 treatment and services identified in the plan. The plan
2 shall be presented to the court for its approval within
3 60 days after the court finding that the person is
4 appropriate for conditional release, unless the
5 Department and the person to be released request
6 additional time to develop the plan. The conditional
7 release program operated under this Section is not
8 subject to the provisions of the Mental Health and
9 Developmental Disabilities Confidentiality Act.

10 (4) An order for conditional release places the
11 person in the custody and control of the Department. A
12 person on conditional release is subject to the
13 conditions set by the court and to the rules of the
14 Department. Before a person is placed on conditional
15 release by the court under this Section, the court shall
16 so notify the municipal police department and county
17 sheriff for the municipality and county in which the
18 person will be residing. The notification requirement
19 under this Section does not apply if a municipal police
20 department or county sheriff submits to the court a
21 written statement waiving the right to be notified. If
22 the Department alleges that a released person has
23 violated any condition or rule, or that the safety of
24 others requires that conditional release be revoked, he
25 or she may be taken into custody under the rules of the
26 Department.

27 At any time during which the person is on
28 conditional release, if the Department determines that
29 the person has violated any condition or rule, or that
30 the safety of others requires that conditional release be
31 revoked, the Department may request the Attorney General
32 or State's Attorney to request the court to issue an
33 emergency ex parte order directing any law enforcement
34 officer to take the person into custody and transport the

1 person to the county jail. The Department may request,
2 or the Attorney General or State's Attorney may request
3 independently of the Department, that a petition to
4 revoke conditional release be filed. When a petition is
5 filed, the court may order the Department to issue a
6 notice to the person to be present at the Department or
7 other agency designated by the court, order a summons to
8 the person to be present, or order a body attachment for
9 all law enforcement officers to take the person into
10 custody and transport him or her to the county jail,
11 hospital, or treatment facility. The Department shall
12 submit a statement showing probable cause of the
13 detention and a petition to revoke the order for
14 conditional release to the committing court within 48
15 hours after the detention. The court shall hear the
16 petition within 30 days, unless the hearing or time
17 deadline is waived by the detained person. Pending the
18 revocation hearing, the Department may detain the person
19 in a jail, in a hospital or treatment facility. The
20 State has the burden of proving by clear and convincing
21 evidence that any rule or condition of release has been
22 violated, or that the safety of others requires that the
23 conditional release be revoked. If the court determines
24 after hearing that any rule or condition of release has
25 been violated, or that the safety of others requires that
26 conditional release be revoked, it may revoke the order
27 for conditional release and order that the released
28 person be placed in an appropriate institution until the
29 person is discharged from the commitment under Section 65
30 of this Act or until again placed on conditional release
31 under Section 60 of this Act.

32 (5) An order for conditional release places the
33 person in the custody, care, and control of the
34 Department. The court shall order the person be subject

1 to the following rules of conditional release, in
2 addition to any other conditions ordered, and the person
3 shall be given a certificate setting forth the conditions
4 of conditional release. These conditions shall be that
5 the person:

6 (A) not violate any criminal statute of any
7 jurisdiction;

8 (B) report to or appear in person before such
9 person or agency as directed by the court and the
10 Department;

11 (C) refrain from possession of a firearm or
12 other dangerous weapon;

13 (D) not leave the State without the consent of
14 the court or, in circumstances in which the reason
15 for the absence is of such an emergency nature, that
16 prior consent by the court is not possible without
17 the prior notification and approval of the
18 Department;

19 (E) at the direction of the Department, notify
20 third parties of the risks that may be occasioned by
21 his or her criminal record or sexual offending
22 history or characteristics, and permit the
23 supervising officer or agent to make the
24 notification requirement;

25 (F) attend and fully participate in
26 assessment, treatment, and behavior monitoring
27 including, but not limited to, medical,
28 psychological or psychiatric treatment specific to
29 sexual offending, drug addiction, or alcoholism, to
30 the extent appropriate to the person based upon the
31 recommendation and findings made in the Department
32 evaluation or based upon any subsequent
33 recommendations by the Department;

34 (G) waive confidentiality allowing the court

1 and Department access to assessment or treatment
2 results or both;

3 (H) work regularly at a Department approved
4 occupation or pursue a course of study or vocational
5 training and notify the Department within 72 hours
6 of any change in employment, study, or training;

7 (I) not be employed or participate in any
8 volunteer activity that involves contact with
9 children, except under circumstances approved in
10 advance and in writing by the Department officer;

11 (J) submit to the search of his or her person,
12 residence, vehicle, or any personal or real property
13 under his or her control at any time by the
14 Department;

15 (K) financially support his or her dependents
16 and provide the Department access to any requested
17 financial information;

18 (L) serve a term of home confinement, the
19 conditions of which shall be that the person:

20 (i) remain within the interior premises
21 of the place designated for his or her
22 confinement during the hours designated by the
23 Department;

24 (ii) admit any person or agent designated
25 by the Department into the offender's place of
26 confinement at any time for purposes of
27 verifying the person's compliance with the
28 condition of his or her confinement;

29 (iii) if deemed necessary by the
30 Department, be placed on an electronic
31 monitoring device;

32 (M) comply with the terms and conditions of an
33 order of protection issued by the court pursuant to
34 the Illinois Domestic Violence Act of 1986. A copy

1 of the order of protection shall be transmitted to
2 the Department by the clerk of the court;

3 (N) refrain from entering into a designated
4 geographic area except upon terms the Department
5 finds appropriate. The terms may include
6 consideration of the purpose of the entry, the time
7 of day, others accompanying the person, and advance
8 approval by the Department;

9 (O) refrain from having any contact, including
10 written or oral communications, directly or
11 indirectly, with certain specified persons
12 including, but not limited to, the victim or the
13 victim's family, and report any incidental contact
14 with the victim or the victim's family to the
15 Department within 72 hours; refrain from entering
16 onto the premises of, traveling past, or loitering
17 near the victim's residence, place of employment, or
18 other places frequented by the victim;

19 (P) refrain from having any contact, including
20 written or oral communications, directly or
21 indirectly, with particular types of persons,
22 including but not limited to members of street
23 gangs, drug users, drug dealers, or prostitutes;

24 (Q) refrain from all contact, direct or
25 indirect, personally, by telephone, letter, or
26 through another person, with minor children without
27 prior identification and approval of the Department;

28 (R) refrain from having in his or her body the
29 presence of alcohol or any illicit drug prohibited
30 by the Cannabis Control Act or the Illinois
31 Controlled Substances Act, unless prescribed by a
32 physician, and submit samples of his or her breath,
33 saliva, blood, or urine for tests to determine the
34 presence of alcohol or any illicit drug;

1 (S) not establish a dating, intimate, or
2 sexual relationship with a person without prior
3 written notification to the Department;

4 (T) neither possess or have under his or her
5 control any material that is pornographic, sexually
6 oriented, or sexually stimulating, or that depicts
7 or alludes to sexual activity or depicts minors
8 under the age of 18, including but not limited to
9 visual, auditory, telephonic, electronic media, or
10 any matter obtained through access to any computer
11 or material linked to computer access use;

12 (U) not patronize any business providing
13 sexually stimulating or sexually oriented
14 entertainment nor utilize "900" or adult telephone
15 numbers or any other sex-related telephone numbers;

16 (V) not reside near, visit, or be in or about
17 parks, schools, day care centers, swimming pools,
18 beaches, theaters, or any other places where minor
19 children congregate without advance approval of the
20 Department and report any incidental contact with
21 minor children to the Department within 72 hours;

22 (W) not establish any living arrangement or
23 residence without prior approval of the Department;

24 (X) not publish any materials or print any
25 advertisements without providing a copy of the
26 proposed publications to the Department officer and
27 obtaining permission prior to publication;

28 (Y) not leave the county except with prior
29 permission of the Department and provide the
30 Department officer or agent with written travel
31 routes to and from work and any other designated
32 destinations;

33 (Z) not possess or have under his or her
34 control certain specified items of contraband

1 related to the incidence of sexually offending items
2 including video or still camera items or children's
3 toys;

4 (AA) provide a written daily log of activities
5 as directed by the Department;

6 (BB) comply with all other special conditions
7 that the Department may impose that restrict the
8 person from high-risk situations and limit access or
9 potential victims.

10 (6) A person placed on conditional release and who
11 during the term undergoes mandatory drug or alcohol
12 testing or is assigned to be placed on an approved
13 electronic monitoring device may be ordered to pay all
14 costs incidental to the mandatory drug or alcohol testing
15 and all costs incidental to the approved electronic
16 monitoring in accordance with the person's ability to pay
17 those costs. The Department may establish reasonable
18 fees for the cost of maintenance, testing, and incidental
19 expenses related to the mandatory drug or alcohol testing
20 and all costs incidental to approved electronic
21 monitoring.

22 (Source: P.A. 90-40, eff. 1-1-98; 91-875, eff. 6-30-00.)

23 (725 ILCS 207/60)

24 Sec. 60. Petition for conditional release.

25 (a) Any person who is committed for institutional care
26 in a secure facility or other facility under Section 40 of
27 this Act may petition the committing court to modify its
28 order by authorizing conditional release if at least 6 months
29 have elapsed since the initial commitment order was entered,
30 the most recent release petition was denied or the most
31 recent order for conditional release was revoked. The
32 director of the facility at which the person is placed may
33 file a petition under this Section on the person's behalf at

1 any time.

2 (b) If the person files a timely petition without
3 counsel, the court shall serve a copy of the petition on the
4 Attorney General or State's Attorney, whichever is applicable
5 and, subject to paragraph (c)(1) of Section 25 of this Act,
6 appoint counsel. If the person petitions through counsel,
7 his or her attorney shall serve the Attorney General or
8 State's Attorney, whichever is applicable.

9 (c) Within 20 days after receipt of the petition, the
10 court shall appoint one or more examiners having the
11 specialized knowledge determined by the court to be
12 appropriate, who shall examine the mental condition of the
13 person and furnish a written report of the examination to the
14 court within 30 days after appointment. The examiners shall
15 have reasonable access to the person for purposes of
16 examination and to the person's past and present treatment
17 records and patient health care records. If any such
18 examiner believes that the person is appropriate for
19 conditional release, the examiner shall report on the type of
20 treatment and services that the person may need while in the
21 community on conditional release. The State has the right to
22 have the person evaluated by experts chosen by the State.
23 The court shall set a probable cause hearing as soon as
24 practical after the examiner's report is filed. If the court
25 determines at the probable cause hearing that cause exists to
26 believe that it is not substantially probable that the person
27 will engage in acts of sexual violence if on release or
28 conditional release, the court shall set a hearing on the
29 issue.

30 (d) The court, without a jury, shall hear the petition
31 within 30 days after the report of the court-appointed
32 examiner is filed with the court, unless the petitioner
33 waives this time limit. The court shall grant the petition
34 unless the State proves by clear and convincing evidence that

1 the person has not made sufficient progress to be
2 conditionally released ~~that--the-person-is-still-a-sexually~~
3 ~~violent-person-and-that-it-is--still--substantially--probable~~
4 ~~that-the-person-will-engage-in-acts-of-sexual-violence-if-the~~
5 ~~person--is--not--confined--in-a-secure-facility.~~ In making a
6 decision under this subsection, the court must may consider
7 the nature and circumstances of the behavior that was the
8 basis of the allegation in the petition under paragraph
9 (b)(1) of Section 15 of this Act, the person's mental history
10 and present mental condition, where the person will live, how
11 the person will support himself or herself and what
12 arrangements are available to ensure that the person has
13 access to and will participate in necessary treatment.

14 (e) Before the court may enter an order directing
15 conditional release to a less restrictive alternative it must
16 find the following: (1) the person will be treated by a
17 Department approved treatment provider, (2) the treatment
18 provider has presented a specific course of treatment and has
19 agreed to assume responsibility for the treatment and will
20 report progress to the Department on a regular basis, and
21 will report violations immediately to the Department,
22 consistent with treatment and supervision needs of the
23 respondent, (3) housing exists that is sufficiently secure to
24 protect the community, and the person or agency providing
25 housing to the conditionally released person has agreed in
26 writing to accept the person, to provide the level of
27 security required by the court, and immediately to report to
28 the Department if the person leaves the housing to which he
29 or she has been assigned without authorization, (4) the
30 person is willing to or has agreed to comply with the
31 treatment provider, the Department, and the court, and (5)
32 the person has agreed or is willing to agree to comply with
33 the behavioral monitoring requirements imposed by the court
34 and the Department.

1 (f) If the court finds that the person is appropriate
2 for conditional release, the court shall notify the
3 Department. The Department shall prepare a plan that
4 identifies the treatment and services, if any, that the
5 person will receive in the community. The plan shall address
6 the person's need, if any, for supervision, counseling,
7 medication, community support services, residential services,
8 vocational services, and alcohol or other drug abuse
9 treatment. The Department may contract with a county health
10 department, with another public agency or with a private
11 agency to provide the treatment and services identified in
12 the plan. The plan shall specify who will be responsible for
13 providing the treatment and services identified in the plan.
14 The plan shall be presented to the court for its approval
15 within 60 days after the court finding that the person is
16 appropriate for conditional release, unless the Department
17 and the person to be released request additional time to
18 develop the plan.

19 (g) The provisions of paragraph (b)(4) of Section 40 of
20 this Act apply to an order for conditional release issued
21 under this Section.

22 (Source: P.A. 90-40, eff. 1-1-98; 91-875, eff. 6-30-00.)

23 (725 ILCS 207/65)

24 Sec. 65. Petition for discharge; procedure.

25 (a)(1) If the Secretary determines at any time that a
26 person committed under this Act is no longer a sexually
27 violent person, the Secretary shall authorize the person to
28 petition the committing court for discharge. The person
29 shall file the petition with the court and serve a copy upon
30 the Attorney General or the State's Attorney's office that
31 filed the petition under subsection (a) of Section 15 of this
32 Act, whichever is applicable. The court, upon receipt of the
33 petition for discharge, shall order a hearing to be held

1 within 45 days after the date of receipt of the petition.

2 (2) At a hearing under this subsection, the Attorney
3 General or State's Attorney, whichever filed the original
4 petition, shall represent the State and shall have the right
5 to have the petitioner examined by an expert or professional
6 person of his or her choice. The committed person or the
7 State may elect to have the hearing before a jury. The State
8 has the burden of proving by clear and convincing evidence
9 that the petitioner is still a sexually violent person.

10 (3) If the court or jury is satisfied that the State has
11 not met its burden of proof under paragraph (a)(2) of this
12 Section, the petitioner shall be discharged from the custody
13 or supervision of the Department. If the court is satisfied
14 that the State has met its burden of proof under paragraph
15 (a)(2), the court may proceed under Section 40 of this Act to
16 determine whether to modify the petitioner's existing
17 commitment order.

18 (b)(1) A person may petition the committing court for
19 discharge from custody or supervision without the Secretary's
20 approval. At the time of an examination under subsection (a)
21 of Section 55 of this Act, the Secretary shall provide the
22 committed person with a written notice of the person's right
23 to petition the court for discharge over the Secretary's
24 objection. The notice shall contain a waiver of rights. The
25 Secretary shall forward the notice and waiver form to the
26 court with the report of the Department's examination under
27 Section 55 of this Act. If the person does not affirmatively
28 waive the right to petition, the court shall set a probable
29 cause hearing to determine whether facts exist that warrant a
30 hearing on whether the person is still a sexually violent
31 person. If a person does not file a petition for discharge,
32 yet fails to waive the right to petition under this Section,
33 then the probable cause hearing consists only of a review of
34 the reexamination reports and arguments on behalf of the

1 parties. The committed person has a right to have an attorney
2 represent him or her at the probable cause hearing, but the
3 person is not entitled to be present at the probable cause
4 hearing. The probable cause hearing under this Section must
5 be held within 45 days of the filing of the reexamination
6 report under Section 55 of this Act.

7 (2) If the court determines at the probable cause
8 hearing under paragraph (b)(1) of this Section that probable
9 cause exists to believe that the committed person is no
10 longer a sexually violent person, then the court shall set a
11 hearing on the issue. At a hearing under this Section, the
12 committed person is entitled to be present and to the benefit
13 of the protections afforded to the person under Section 25 of
14 this Act. The committed person or the State may elect to have
15 a hearing under this Section before a jury. A verdict of a
16 jury under this Section is not valid unless it is unanimous.
17 The Attorney General or State's Attorney, whichever filed the
18 original petition, shall represent the State at a hearing
19 under this Section. The State has the right to have the
20 committed person evaluated by experts chosen by the State.
21 At the hearing, the State has the burden of proving by clear
22 and convincing evidence that the committed person is still a
23 sexually violent person.

24 (3) If the court or jury is satisfied that the State has
25 not met its burden of proof under paragraph (b)(2) of this
26 Section, the person shall be discharged from the custody or
27 supervision of the Department. If the court or jury is
28 satisfied that the State has met its burden of proof under
29 paragraph (b)(2) of this Section, the court may proceed under
30 Section 40 of this Act to determine whether to modify the
31 person's existing commitment order.

32 (Source: P.A. 90-40, eff. 1-1-98; 91-227, eff. 1-1-00.)

33 Section 20. The Unified Code of Corrections is amended

1 by changing Section 5-3-4 as follows:

2 (730 ILCS 5/5-3-4) (from Ch. 38, par. 1005-3-4)

3 Sec. 5-3-4. Disclosure of Reports.

4 (a) Any report made pursuant to this Article or Section
5 5-705 of the Juvenile Court Act of 1987 shall be filed of
6 record with the court in a sealed envelope.

7 (b) Presentence reports shall be open for inspection
8 only as follows:

9 (1) to the sentencing court;

10 (2) to the state's attorney and the defendant's
11 attorney at least 3 days prior to the imposition of
12 sentence, unless such 3 day requirement is waived;

13 (3) to an appellate court in which the conviction
14 or sentence is subject to review;

15 (4) to any department, agency or institution to
16 which the defendant is committed;

17 (5) to any probation department of whom courtesy
18 probation is requested;

19 (6) to any probation department assigned by a court
20 of lawful jurisdiction to conduct a presentence report;

21 (7) to any other person only as ordered by the
22 court; and-

23 (8) to any mental health professional on behalf of
24 the Illinois Department of Corrections or the Department
25 of Human Services or to a prosecutor who is evaluating or
26 investigating a potential or actual petition brought
27 under the Sexually Violent Persons Commitment Act
28 relating to a person who is the subject of a presentence
29 report or the respondent to a petition brought under the
30 Sexually Violent Persons Commitment Act who is the
31 subject of the presentence report sought. Any records and
32 any information obtained from those records under this
33 paragraph (8) may be used only in sexually violent

1 persons commitment proceedings.

2 (c) Presentence reports shall be filed of record with
3 the court within 30 days of a verdict or finding of guilty
4 for any offense involving an illegal sexual act perpetrated
5 upon a victim, including but not limited to offenses for
6 violations of Article 12 of the Criminal Code of 1961.

7 (d) A complaint, information or indictment shall not be
8 quashed or dismissed nor shall any person in custody for an
9 offense be discharged from custody because of noncompliance
10 with subsection (c) of this Section.

11 (Source: P.A. 90-590, eff. 1-1-99.)

12 Section 25. The Mental Health and Developmental
13 Disabilities Confidentiality Act is amended by changing
14 Section 9.3 as follows:

15 (740 ILCS 110/9.3)

16 Sec. 9.3. Disclosure without consent under the Sexually
17 Violent Persons Commitment Act. Disclosure may be made
18 without consent by any therapist or other treatment provider
19 providing mental health or developmental disabilities
20 services pursuant to the provisions of the Sexually Violent
21 Persons Commitment Act or who previously provided any type of
22 mental health or developmental disabilities services to a
23 person who is subject to an evaluation, investigation, or
24 prosecution of a petition under the Sexually Violent Persons
25 Commitment Act. Disclosure may be made to the Attorney
26 General, the State's Attorney participating in the case, the
27 Department of Human Services, the court, and any other party
28 to whom the court directs disclosure to be made. The
29 information disclosed may include any records or
30 communications in the possession of the Department of
31 Corrections, if those records or communications were relied
32 upon by the therapist in providing mental health or

1 developmental disabilities services pursuant to the Sexually
2 Violent Persons Commitment Act. Any records and any
3 information obtained from those records under this Section
4 may be used only in sexually violent persons commitment
5 proceedings.

6 (Source: P.A. 90-793, eff. 8-14-98.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.